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PATENT
2832-0145P

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: YOON, Sang Chul et al. Conf.: 7519
Appl. No.: 09/941,874 Group: 2636
Filed: August 30, 2001 Examiner: DANIEL PREVIL
For: APPARATUS AND METHOD FOR REMOTELY
CONTROLLING HOUSEHOLD APPLIANCES

RECEIVED

APR 23 2004

LARGE ENTITY TRANSMITTAL FORM

Technology Center 2600

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

April 22, 2004

Sir:

Transmitted herewith is a Reply to Restriction/Election Requirement in the above-identified application.

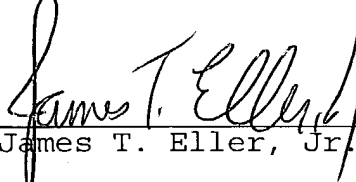
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Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By



James T. Eller, Jr., #39,538

JTE:cms
2832-0145P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

Attachment(s)

(Rev. 02/08/2004)



PATENT
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RESPONSE TO RESTRICTION REQUIREMENT

Technology Center 2600

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

April 22, 2004

In response to the Examiner's Restriction Requirement dated March 22, 2004, the following election and remarks are respectfully submitted in connection with the above-identified application.

RESTRICTION REQUIREMENT

The Examiner has made a requirement for restriction between the following groups of claims:

Group I: Claims 1-7, drawn to use of network processors, classified in class 340, subclass 310.01;

Group II: Claims 8-21, drawn to use of an IP address, classified in class 340, subclass 539.14; and

Group III: Claims 22-33, drawn to checking various components in a household appliance, classified in class 340, subclass 825.36.

The Examiner states that Applicants can elect "either groups I and III or group II."

ELECTION

In order to comply with the Examiner's Restriction Requirement, Applicants provisionally elect to prosecute Groups I and III, directed to claims 1-7 and 22-33, for prosecution in the present application. Applicants reserve the right to file a Divisional application directed to the non-elected claims at a later date, if so desired.

This requirement for restriction is respectfully traversed for the reasons set forth below.

REMARKS

Applicants respectfully submit that the Examiner has failed to meet the required burden of showing that the groups of claims are independent and distinct, as required by law. 35 USC §121 specifically states that the Commissioner may require the application to be restricted if it contains two or more "independent and distinct" inventions claimed in one application.

37 CFR §1.141 and §1.142 further repeat the language that the two or more inventions must be "independent and distinct".

MPEP §802.01 provides specific definitions of the meaning of the terms "independent" and "distinct". MPEP §802.01 states that

the terms "independent" and "distinct" do not mean the same thing, but in fact have very different meanings. The term "independent", as set forth in MPEP §802.01, means that "there is no disclosed relationship between the two or more subjects disclosed, that is, they are unconnected in design, operation, or effect". The term "distinct" means that "two or more subjects as disclosed are related, for example, as combination and part (sub-combination) thereof, ... and are patentable over each other".

The Examiner has set forth various reasons why the inventions are "distinct" from one another, by providing separate classifications for the groups (yet all within the same class), and by stating reasons why the groups are related. However, the Examiner has not met the burden of proving that the groupings are "independent" as required by the United States Code, the Code of Federal Regulations, and the Manual of Patent Examining Procedure.

Further, Applicants respectfully submit that any policy set forth in the MPEP which conflicts with the requirements for both independence and distinctness is superseded by the directives of the United States Code and the Code of Federal Regulations, which specifically require both independence and distinctness between properly restrictable groupings. Accordingly, Applicants respectfully submit that the requirement for restriction is improper, and respectfully request that the requirement for restriction be withdrawn.

Applicants respectfully submits that MPEP §808.01 states that inventions are independent "where they are not connected in design, operation, or effect under the disclosure of the particular application under consideration" and that "[t]his situation, except for species, is but *rarely present*, since persons will seldom file an application containing disclosures of independent things. (emphasis added). MPEP §806.04 cites the intended meaning of independent inventions by citing specific examples of independence, stating "[a]n article of apparel such as a shoe, and a locomotive bearing would be an example. A process of painting a house and a process of boring a well would be a second example."

Applicants respectfully submit that the groups set forth by the Examiner cannot be considered "independent", since the specification clearly discloses the relationship between the subject matter of the claims of these groupings, and thus, the groupings are not wholly unrelated or "independent". Therefore, Applicants respectfully submit that the instant application is not properly restrictable, since the Examiner has not shown that the inventions are "independent" as required by the U.S. Statute.

Accordingly, in view of the above remarks, reconsideration of the requirement for restriction, and an action on all of the claims in the application, are respectfully requested.


Favorable action on the present application is earnestly solicited.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone James T. Eller, Jr., Registration No. 39,538, at (703) 205-8000, in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By: 
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